

File No. 201821

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARIA I. RODRIGUEZ

Plaintiff(s),

v.

CASE NO.

SHAWN F. PENNELL, CARRIGAN &
SONS TRUCKING, JOHN DOE #1-10,
JANE ROE #1-10, ABC COMPANY, #1-10:
Said names being fictitious

Defendant(s).

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY:

Defendants, Shawn F. Pennell and Carrigan & Sons Trucking, Inc. (i/p/a Carrigan & Sons Trucking), through their attorneys, Salmon Ricchezza Singer & Turchi, LLP, respectfully aver as follows:

1. At all material times, plaintiff, Maria I. Rodriguez, was and is a citizen of the State of New Jersey, residing at 2615 Kennedy Boulevard, North Bergen Township, New Jersey. (See Plaintiff's Complaint, attached as Exhibit "A.")
2. At all material times, defendant Shawn F. Pennell was and is a citizen of the State of North Carolina, residing at 10 Sun Valley Lane, Taylorsville, North Carolina.
3. At all material times, defendant, Carrigan & Sons Trucking, Inc. was and is a corporation organized under the laws of the State of North Carolina, with its principal place of business at 5587 Highway NC 16 South, Taylorsville, North Carolina.

4. Plaintiff commenced a civil action against defendants in the Superior Court of New Jersey for Hudson County. A copy of the Summons and Complaint was served upon defendant Shawn Pennell on or about August 16, 2017. A copy of the Summons and Complaint was served upon defendant Carrigan & Sons Trucking, Inc., on or about August 17, 2017.

5. Plaintiff's Complaint alleges damages involving unspecified "serious physical and emotional injuries of both a temporary and permanent nature, considerable pain, anguish and suffering, shock, loss of wages and other special damages." (See Exhibit "A.")

6. Therefore, Plaintiff's Complaint did not allege injuries or damages with sufficient specificity to reasonably assert by a preponderance of competent, admissible evidence that the amount in controversy exceeded the federal diversity jurisdictional threshold of \$75,000. *See Frederico v. Home Depot*, 507 F.3d 188, 194 (3rd Cir. 2007) (party asserting federal jurisdiction has the burden to demonstrate it by a preponderance of evidence.)

7. Therefore, defendants filed Answers to Plaintiff's Complaint, including a Demand for Statement of Damages pursuant to N.J. Court R. 4:5-2, on or about August 25, 2017 and September 19, 2017. (See Answers to Plaintiff's Complaint attached as Exhibit "B.")

8. On or about September 15, 2017, counsel for Plaintiff served a Statement of Damages demanding \$350,000. (See Plaintiff's Demand for Statement of Damages, attached as Exhibit "C.")

9. Pursuant to 28 U.S.C. §1446(b)(3):

[I]f the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

10. Damage demands in the state court proceeding are deemed such “other paper” upon which a case may become removable. 28 U.S.C. §1446(c)(3)(A).

11. Diversity of citizenship within the meaning of 28 U.S.C. §1332 exists between plaintiffs and defendants since:

- (a) Plaintiff is a citizen of the State of New Jersey;
- (b) Defendant, Shawn F. Pennell, at all material times, was and is a citizen of the State of North Carolina; and
- (c) Carrigan & Sons Trucking, Inc., was and is a corporation organized and domiciled in the State of North Carolina.

12. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

13. Defendants’ Notice of Removal is filed within thirty days of receipt of Plaintiff’s Statement of Damages.

WHEREFORE, defendants herein prays that the above-captioned action now pending in the Superior Court of New Jersey, Law Division, Hudson County, be removed therefrom to this Honorable Court.

**SALMON RICCHEZZA SINGER & TURCHI,
LLP**

By: 

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Attorneys for Defendants
Shawn F. Pennell and Carrigan & Sons
Trucking, Inc.

Dated: 9-21-17